

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 62 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 24-9-4.5 IS ADDED TO THE INDIANA CODE
- 4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2008]:
- 6 **Chapter 4.5. Residential Real Estate Closings**
- 7 **Sec. 1. This chapter applies to a home loan closing that takes**
- 8 **place after June 30, 2008.**
- 9 **Sec. 2. As used in this chapter, "closing documents" refers to the**
- 10 **documents that a settlement service provider is required to provide**
- 11 **to a borrower at or before the closing of a home loan, in**
- 12 **accordance with the requirements of the federal Real Estate**
- 13 **Settlement Procedures Act (12 U.S.C. 2601 et seq.), as amended.**
- 14 **Sec. 3. (a) As used in this chapter, "settlement service provider"**
- 15 **means a person that provides services in connection with the**
- 16 **closing of a real estate transaction, including the provision of title**
- 17 **examinations or title insurance.**
- 18 **(b) The term includes a closing agent (as defined in**
- 19 **IC 6-1.1-12-43(a)(2)).**
- 20 **Sec. 4. A creditor shall provide a prospective borrower with a**
- 21 **notice that states that the prospective borrower has a right to**
- 22 **receive, at least forty-eight (48) hours before the closing of a home**
- 23 **loan, the closing documents with respect to the home loan. The**
- 24 **creditor shall provide the notice required by this section at the**

1 same time that the creditor provides the good faith estimates
 2 required under the federal Real Estate Settlement Procedures Act
 3 (12 U.S.C. 2601 et seq.), as amended.

4 Sec. 5. (a) Subject to subsection (b), not later than forty-eight
 5 (48) hours before the closing of a home loan, a settlement service
 6 provider shall make available to the borrower the closing
 7 documents with respect to the home loan. The settlement service
 8 provider shall make the closing documents available to the
 9 borrower:

10 (1) at the office of the creditor or the settlement service
 11 provider;

12 (2) through the United States mail;

13 (3) by facsimile; or

14 (4) through any other commercially reasonable means.

15 (b) A borrower may waive the right to receive the closing
 16 documents with respect to a home loan by providing a written
 17 notice of waiver to the settlement service provider at or before the
 18 time of closing.

19 (c) If the terms of the home loan set forth in the closing
 20 documents made available to the borrower under subsection (a)
 21 differ from the terms of the home loan presented to the borrower
 22 at the time of the closing, the borrower is entitled to delay or
 23 reschedule the closing without penalty and without forfeiting the
 24 right to enter into the loan or, in the case of a purchase money
 25 home loan, into the purchase contract. For purposes of this
 26 subsection, "terms", with respect to a home loan, includes any of
 27 the
 28 following:

29 (1) The total loan amount.

30 (2) The loan's rate, including the trigger rate.

31 (3) Points and fees.

32 (4) Payment amounts and schedules.

33 (5) The term or duration of the loan.

34 (6) Prepayment penalties, if any.

35 (7) Acceleration provisions.

36 (8) Servicing of the loan.

37 (9) Other provisions concerning the rights and responsibilities
 38 of the parties to the home loan.

39 Sec. 6. (a) A settlement service provider is subject to a civil
 40 penalty of twenty-five dollars (\$25) for each instance in which the
 41 settlement service provider fails to:

42 (1) provide a prospective borrower with the notice required
 43 by section 4 of this chapter; or

44 (2) make closing documents available to a borrower as
 45 required by section 5 of this chapter, unless the borrower has
 46 waived the borrower's right to receive the closing documents
 47 under section 5(b) of this chapter.

1 **(b) A penalty described in subsection (a):**

2 **(1) may be enforced by the state agency that has**
3 **administrative jurisdiction over the settlement service**
4 **provider in the same manner that the agency enforces the**
5 **payment of fees or other penalties payable to the agency; and**
6 **(2) shall be paid into the property tax replacement fund.**

7 **(c) A settlement service provider is not liable for any other**
8 **damages claimed by a customer because of the closing agent's**
9 **failure to comply with this chapter."**

10 Page 2, line 19, after "two" insert "**(2)**".

11 Page 2, line 21, delete "property".

12 Page 2, line 22, delete "then".

13 Page 2, line 23, delete "will be" and insert "**is**".

14 Page 2, line 24, delete "no" and insert "**not**".

15 Page 2, line 25, after "one" insert "**(1)**".

16 ReNUMBER all SECTIONS consecutively.

(Reference is to ESB 62 as printed February 15, 2008.)

Representative Murphy